

REMARKS

Claims 1 and 16 have been amended to incorporate a feature from dependent claim 2.
New claims 19 and 20 which use means plus function language have been added.
Reconsideration and allowance are requested.

Claims 1-2, 7, and 14-16 stand rejected for anticipation under 35 U.S.C. §102 based on Weigand. This rejection is respectfully traversed.

To establish that a claim is anticipated, the Examiner must point out where each and every limitation in the claim is found in a single prior art reference. *Scripps Clinic & Research Found. v. Genentec, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991). Every limitation contained in the claims must be present in the reference, and if even one limitation is missing from the reference, then it does not anticipate the claim. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). Weigand fails to satisfy this rigorous standard.

The independent claims recite “scaling the training signal with a variable scaling factor” and “quantizing the scaled training signal.” Weigand teaches 8-bit training patterns stored in memory at 105. There is no teaching in Weigand that these stored 8-bit training patterns 105 are first scaled and then quantized. Weigand states that eight 26 bit training patterns “are stored differentially encoded, scaled and algebraically mapped for proper correlation.” Col. 3, lines 24-25. The Examiner contends “it is inherent that digital signal processing i.e. DSP during the encoding stage of the training sequence involves quantization,” making reference to col. 3, lines 24-26. Page 2. But the claims require that the training signal be quantized only after scaling. There is no evidence in Weigand clearly teaches that the training patterns are in fact quantized after scaling.

Any argument that an element that an element is inherent in a prior art reference requires proof that the element is *necessarily present* in the reference. "Inherent anticipation requires that the missing descriptive material is 'necessarily present,' not merely probably or possibly present, in the prior art." *Trintect Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295 (Fed. Cir. 2002). That "necessarily present" proof requirement is lacking in the Examiner's rejection.

The independent claims provide flexible derivation of timing information, and that flexibility is achieved by the claimed a *variable* scaling factor. There is no teaching or evidence in Weigand that the scaling of the training patterns is accomplished using a variable scaling factor.

Lacking features recited in the independent claims, the application is in condition for allowance. An early notice to that effect is requested.

Respectfully submitted,

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